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MINISTRY OF LAW

New Delhi, the 21st March, 1952

The following Acts of Parliament received the assent of the President on the 21st March, 1952 and are hereby published for general information:—

THE INDIAN STANDARDS INSTITUTION (CERTIFICATION MARKS) ACT, 1952

No. XXXVI OF 1952

[21st March, 1952.]

An Act to provide for the standardisation and marking of goods.

As it enacted by Parliament as follows:—

1. Short title and extent.—(1) This Act may be called the Indian Standards Institution (Certification Marks) Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “article” means (as respects standardisation and marking) any substance, artificial or natural, or partly artificial or partly natural, whether raw or partly or wholly processed or manufactured;

(b) “covering” includes any stopper, cask, bottle, vessel, box, crate, cover, capsule, case, frame, wrapper or other container;

(c) “Indian Standard” means the standard (including any tentative or provisional standard) established and published by the Indian Standards Institution, in relation to any article or process, indicative of the quality and specification of such article or process;

(d) “Inspector” means an Inspector appointed under section 8;

(e) “Institution” means the Indian Standards Institution set up under the Resolution of the Government of India in the late Department of Industries and Supplies No. 1 Std. (4)/45, dated the 8rd day of September, 1940, and registered under the Societies Registration Act, 1860 (XXI of 1860);

(f) "licence" means a licence granted under this Act to use the Indian Standards Institution Certification Mark, in relation to any article or process which conforms to the Indian Standard;

(g) "mark" includes a device, brand, heading, label, ticket, pictorial representation, name, signature, word, letter or numeral or any combination thereof;

(h) "prescribed" means prescribed by rules or regulations made under this Act;

(i) "process" includes any practice, treatment and mode of manufacture of any article,

(j) "registering authority" means any authority competent under any law for the time being in force to register any company, firm or other body of persons, or any trade mark or design, or to grant a patent;

(k) "specification" means a description of an article or process as far as practicable by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age, material, mode of manufacture or other characteristics to distinguish it from any other article or process;

(l) "Standard Mark" means the Indian Standards Institution Certification Mark specified by the Indian Standards Institution to represent a particular Indian Standard;

(m) "trade mark" means a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark, whether with or without any indication of the identity of that person;

(n) an article is said to be marked with a Standard Mark if the article itself is marked with a Standard Mark or any covering containing, or label attached to, such article is so marked.

3. Powers and duties of the Institution.—The Institution may exercise such powers and perform such duties as may be assigned to it by or under this Act, and, in particular, such powers include power to—

(a) establish and publish, in such manner as may be prescribed, the Indian Standard in relation to any article or process;

(b) specify a Standard Mark to be called the Indian Standards Institution Certification Mark, which shall be of such design and contain such particulars as may be prescribed to represent a particular Indian Standard;

(c) grant, renew, suspend or cancel, in such manner as may be prescribed, a licence for the use of the Standard Mark;

(d) levy such fees for the grant or renewal of any licence as may be prescribed;

(e) make such inspection and take such samples of any material or substance as may be necessary to see whether any article or process in relation to which the Standard Mark has been used conforms to the Indian Standard or whether the Standard Mark has been improperly used in relation to any article or process with or without licence;

(f) do such other acts as may be prescribed.

4. Authentication of orders and other instruments of the Institution.—All orders and decisions of, and all other instruments issued by, the Institution shall be authenticated by the signature of such officer or officers as may be authorised by the Institution in this behalf.

5. Prohibition of improper use of Standard Mark.—(1) No person shall use, in relation to any article or process, or in the title of any patent, or in any trade mark or design the Standard Mark or any colourable imitation thereof, except under a licence granted under this Act.

(2) No person shall, notwithstanding that he has been granted a licence, use in relation to any article or process the Standard Mark or any colourable imitation thereof unless such article or process conforms to the Indian Standard.

6. Prohibition of use of certain names, etc.—No person shall, except in such cases and under such conditions as may be prescribed, use without the previous permission of the Institution,—

(a) any name which so nearly resembles the name of the Indian Standards Institution as to deceive or likely to deceive the public or which contains the expression "Indian Standard" or any abbreviation thereof; or

(b) any mark or trade mark in relation to any article or process containing the expressions "Indian Standard" or "Indian Standard specification" or any abbreviation of such expressions.

7. Prohibition of registration in certain cases.—(1) Notwithstanding anything contained in any law for the time being in force, no registering authority shall—

(a) register any company, firm or other body of persons which bears any name, or

(b) register a trade mark or design which bears any name or mark, or

(c) grant a patent, in respect of an invention, which bears a title containing any name or mark,

if the use of such name or mark is in contravention of section 5 or section 6.

(2) If any question arises before a registering authority whether the use of any name or mark is in contravention of section 5 or section 6, the registering authority may refer the question to the Central Government, whose decision thereon shall be final.

8. Inspectors.—(1) The Institution may appoint as many Inspectors as may be necessary for the purpose of inspecting whether any article or process in relation to which the Standard Mark has been used conforms to the Indian Standard or whether the Standard Mark has been improperly used in relation to any article or process with or without licence, and for the purpose of performing such other functions as may be assigned to them.

(2) Subject to any rules made under this Act, an Inspector shall have power to—

(a) inspect any operation carried on in connection with any article or process in relation to which the Standard Mark has been used;

(b) take samples of any article, or of any material or substance used in any article or process, in relation to which the Standard Mark has been used;

(c) exercise such other powers as may be prescribed.

(3) Every Inspector shall be furnished by the Institution with a certificate of appointment as an Inspector, and the certificate shall, on demand, be produced by the Inspector.

9. Power to obtain information, etc.—Every licensee shall supply the Institution with such information, and with such samples of any material or substance used in relation to any article or process, as the Institution may require.

10. Power to authorise the competent authority.—(1) The Central Government may, in consultation with the Institution, by notification in the Official Gazette, direct that any power exercisable by the Institution by or under this Act shall, in relation to such matters and subject to such conditions as may be specified in the direction, be exercisable also by such authority or such organisation as may be specified in the notification (hereinafter referred to as the 'competent authority').

(2) For avoidance of doubts, it is hereby declared that the Central Government may, by a like notification, withdraw the powers delegated to a competent authority under sub-section (1).

11. Appeals.—(1) Any person aggrieved by an order passed under clause (c) of section 3, whether by the Institution or by a competent authority, may prefer an appeal to the Central Government.

(2) The appeal shall be presented in such form and manner and within such time as may be prescribed.

(3) The Central Government shall, in dealing with appeals under this section, follow such procedure as may be prescribed.

12. Certain matters to be kept confidential.—Any information obtained by an Inspector, competent authority, or the Institution from any statement made or information supplied or in any evidence given or from inspection made under the provisions of this Act shall be treated as confidential:

Provided that nothing in this section shall apply to the disclosure of any information for the purpose of prosecution under this Act.

13. Penalty for improper use of Standard Marks, etc.—(1) Any person who contravenes the provisions of section 5 or section 6 shall be punishable with fine which may extend to ten thousand rupees.

(2) Any court trying a contravention under sub-section (1) may direct that any property in respect of which the contravention has taken place shall be forfeited to the Government.

14. Penalty for other offences.—Whoever contravenes any of the provisions of this Act or of any rules made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one thousand rupees.

15. Cognizance of offences by courts.—(1) No court shall take cognizance of any offence punishable under this Act, save on complaint made by or under the authority of the Government or the Institution or by an officer empowered in this behalf by the Government or the Institution.

(2) No court inferior to that of a presidency magistrate or a magistrate of the first class specially empowered in this behalf shall try any offence punishable under this Act.

16. Protection of action taken under this Act.—No suit, prosecution or other legal proceeding shall lie against the Central Government or the Institution or

any person acting under the authority of the Central Government or the Institution for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder.

17. Act not to affect the operation of certain Acts.—Nothing in this Act shall affect the operation of the Agricultural Produce (Grading and Marking) Act, 1937 (I of 1937) or the Drugs Act, 1940 (XXIII of 1940).

18. Savings.—Nothing in this Act shall exempt any person from any suit or other proceeding which might, apart from this Act, be brought against him.

19. Directions by the Central Government.—(1) The Central Government may, if satisfied that the public interest so requires, by order in writing for reasons to be stated therein, give to the Institution general instructions to be followed by the Institution and such instructions may, notwithstanding anything contained in the Societies Registration Act, 1860 (XXI of 1860), include directions to make or amend any bye-law relating to the composition of the Governing Body or other Committees of the Institution and its powers and functions in such form and within such period as may be specified in the order.

(2) In the exercise of its powers and performance of its duties, the Institution shall not depart from any general instructions issued under sub-section (1).

Explanation.—In this section, the expression "bye-law" includes all rules, or regulations (by whatever name called) which the Institution is competent to make in the exercise of the powers conferred on it under the Societies Registration Act, 1860.

20. Power to make rules.—(1) The Central Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the procedure and manner in which the Indian Standard, in relation to any article or process, may be established and published;

(b) the design of the Standard Mark in relation to each Indian Standard and the particulars which a Standard Mark may contain;

(c) authorisation of competent authority under section 10;

(d) the manner in which, and the conditions subject to which, a licence to use the Standard Mark may be granted, renewed, suspended or cancelled;

(e) the levy of fees for the grant or renewal of any licence;

(f) the mode of inspection by the Institution and the manner in which samples may be taken by it;

(g) the powers and functions of the Institution;

(h) the cases in which, and the circumstances under which, exemption may be granted from the prohibition contained in section 6;

(i) the powers of Inspectors;

(j) the form and manner in which and the time within which appeals may be preferred; the procedure to be followed in hearing appeals;

(k) the forms to be used under this Act;

(l) any other matter which has to be, or may be, prescribed under this Act.

(3) In making any rule under this section, the Central Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

21. Power to make regulations.—(1) The Institution may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the matters specified in clauses (a), (b) and (f) of sub-section (2) of section 20. *

THE CINEMATOGRAPH ACT, 1952

No. XXXVII OF 1952

[21st March, 1952.]

An Act to make provision for the certification of cinematograph films for exhibition and for regulating exhibitions by means of cinematographs.

BE it enacted by Parliament as follows:—

PART I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Cinematograph Act, 1952.

(2) Parts I, II and IV extend to the whole of India except the State of Jammu and Kashmir and Part III extends to Part C States only.

(3) This Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “adult” means a person who has completed his eighteenth year;

(b) “Board” means the Board of Film Censors constituted by the Central Government under section 8;

(c) “cinematograph” includes any apparatus for the representation of moving pictures or series of pictures;

(d) “district magistrate”, in relation to a presidency-town, means the commissioner of police;

(e) “place” includes a house, building, tent and any description of transport, whether by sea, land or air;

(f) “prescribed” means prescribed by rules made under this Act.

PART II

CERTIFICATION OF FILMS FOR PUBLIC EXHIBITION

3. Board of Film Censors.—The Central Government may, by notification in the Official Gazette, constitute a Board of Film Censors, consisting of such number of persons as may be prescribed, for the purpose of examining and certifying films as suitable for unrestricted public exhibition or for public exhibition restricted to adults and prescribed the manner in which the Board shall exercise the powers conferred on it by this Act.

4. Certification of films.—(1) If the Board, after examination, considers that a film is suitable for unrestricted public exhibition or that, although not suitable for such exhibition it is suitable for public exhibition restricted to adults, it shall grant to the person applying for a certificate in respect of the film a "U" certificate in the former case and an "A" certificate in the latter case, and shall, in either case, cause the film to be so marked in the prescribed manner, and any such certificate shall, save as hereinafter provided, be valid throughout India.

(2) If the Board is of opinion that a film is neither suitable for unrestricted public exhibition nor for public exhibition restricted to adults, it shall inform the person applying for the certificate of its decision.

5. Appeals.—(1) Any person applying for a certificate, who is aggrieved by the decision of the Board—

(a) refusing to grant a certificate, or

(b) granting only an "A" certificate, may, within thirty days from the date of such decision, appeal to the Central Government, and the Central Government may, after such inquiry into the matter as it considers necessary, pass such orders thereon as it thinks fit.

(2) If the Central Government rejects an appeal on the ground that a film is neither suitable for unrestricted public exhibition nor for public exhibition restricted to adults, it shall, by notification in the Official Gazette, direct that the film shall be deemed to be an uncertified film in the whole of India.

(3) For the purpose of disposing of any appeal under this section, the Central Government may demand the exhibition of any film before any authority specified in this behalf and call for the report of such authority thereon.

(4) Nothing in this section shall prevent the Central Government from calling at any time for the record of any proceeding of the Board relating to the refusal to grant, or the grant of, any certificate and in which no appeal has been preferred and to make such order in the case as to the Central Government may seem fit.

6. Power of Central Government to modify orders under section 4 or section 5.—Notwithstanding anything contained in this Part, the Central Government may, of its own motion by notification in the Official Gazette, direct that—

(a) a certified film shall be deemed to be an uncertified film in the whole or any part of India, or

(b) a film in respect of which a "U" certificate has been granted, shall be deemed to be a film in respect of which an "A" certificate has been granted:

Provided that before notification of such direction the person to whom the certificate was issued shall be given a fortnight's notice to show cause as to why such a direction be not notified.

7. Penalties for contraventions of this Part.—(1) If any person exhibits, or permits to be exhibited in any place,—

(a) any film other than a film which has been certified by the Board as suitable for unrestricted public exhibition or for public exhibition restricted to adults and which when exhibited displays the prescribed mark of the Board and has not been altered or tampered with in any way since such mark was affixed thereto, or

(b) any film, which has been certified by the Board as suitable for public exhibition restricted to adults, to any person who is not an adult, he shall be punishable with fine which may extend to one thousand rupees, and in the case of a continuing offence with a further fine which may extend to one hundred rupees for each day during which the offence continues.

(2) If any person is convicted of an offence punishable under this section committed by him in respect of any film, the convicting court may further direct that the film shall be forfeited to the Government.

(3) The exhibition of a film, in respect of which an "A" certificate has been granted, to children below the age of three years accompanying their parents or guardians shall not be deemed to be an offence within the meaning of this section.

8. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

(a) the number of persons who may constitute the Board and the manner in which the Board may exercise its powers, including the delegation of any of the powers of the Board to such person or persons as the Board may nominate in that behalf;

(b) the procedure of the Board for examining and certifying films as suitable for public exhibition and all matters ancillary thereto and the fees that may be levied by the Board;

(c) the appointment of officers subordinate to the Board and the regulation of the terms and conditions of service and the powers and duties of such officers;

(d) the conditions (including conditions relating to the length of films in general or any class of films, in particular) subject to which any certificate may be granted, or the circumstances in which any certificate shall be refused;

(e) the manner in which an appeal under this Part may be preferred;

(f) any other matter which by this Act is to be prescribed.

(3) All rules made by the Central Government under this Part shall be laid before Parliament as soon as may be after they are made.

9. Power to exempt.—The Central Government may, by order in writing exempt, subject to such conditions and restrictions, if any, as it may impose, the exhibition of any film or class of films from any of the provisions of this Part or of any rules made thereunder.

PART III

REGULATION OF EXHIBITIONS BY MEANS OF CINEMATOGRAPHS

10. Cinematograph exhibitions to be licensed.—Save as otherwise provided in this Part, no person shall give an exhibition by means of a cinematograph elsewhere than in a place licensed under this Part or otherwise than in compliance with any conditions and restrictions imposed by such licence.

11. Licensing authority.—The authority having power to grant licences under this Part (hereinafter referred to as the licensing authority) shall be the district magistrate:

Provided that the State Government may, by notification in the Official Gazette, constitute, for the whole or any part of a Part C State, such other authority as it may specify in the notification to be the licensing authority for the purposes of this Part.

12. Restrictions on powers of licensing authority.—(1) The licensing authority shall not grant a licence under this Part, unless it is satisfied that—

(a) the rules made under this Part have been substantially complied with, and

(b) adequate precautions have been taken in the place, in respect of which the licence is to be given, to provide for the safety of persons attending exhibitions therein.

(2) Subject to the foregoing provisions of this section and to the control of the State Government, the licensing authority may grant licences under this Part to such persons as that authority thinks fit and on such terms and conditions and subject to such restrictions as it may determine.

(3) Any person aggrieved by the decision of a licensing authority refusing to grant a licence under this Part may, within such time as may be prescribed, appeal to the State Government or to such officer as the State Government may specify in this behalf and the State Government or the officer, as the case may be, may make such order in the case as it or he thinks fit

(4) The Central Government may, from time to time, issue directions to licensees generally or to any licensee in particular for the purpose of regulating the exhibition of any film or class of films, so that scientific films, films intended for educational purposes, films dealing with news and current events, documentary films or indigenous films secure an adequate opportunity of being exhibited, and where any such directions have been issued those directions shall be deemed to be additional conditions and restrictions subject to which the licence has been granted.

13. Power of Central Government or local authority to suspend exhibition of films in certain cases.—(1) The Lieutenant-Governor or, as the case may be, the Chief Commissioner, in respect of the whole Part C State or any part thereof, and the district magistrate in respect of the district within his jurisdiction, may, if he is of opinion that any film which is being publicly exhibited is likely to cause a breach of the peace, by order, suspend the exhibition of the film and during such suspension the film shall be deemed to be an uncertified film in the State, part or district, as the case may be.

(2) Where an order under sub-section (1) has been issued by the Chief Commissioner or a district magistrate, as the case may be, a copy thereof, together with a statement of reasons therefor, shall forthwith be forwarded by the person making the same to the Central Government, and the Central Government may either confirm or discharge the order.

(3) An order made under this section shall remain in force for a period of two months from the date thereof, but the Central Government may, if it is of opinion that the order should continue in force, direct that the period of suspension shall be extended by such further period as it thinks fit.

14. Penalties for contravention of this Part.—If the owner or person in charge of a cinematograph uses the same or allows it to be used, or if the owner or occupier of any place permits that place to be used in contravention of the provisions of this Part or of the rules made thereunder, or of the conditions and restrictions upon or subject to which any licence has been granted under this Part, he shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues.

15. Power to revoke licence.—Where the holder of a licence has been convicted of an offence under section 7 or section 14, the licence may be revoked by the licensing authority.

16. Power to make rules.—The Central Government may, by notification in the Official Gazette, make rules—

(a) prescribing the terms, conditions and restrictions, if any, subject to which licences may be granted under this Part;

(b) providing for the regulation of cinematograph exhibitions for securing the public safety;

(c) prescribing the time within which and the conditions subject to which an appeal under sub-section (3) of section 12 may be preferred.

17. Power to exempt.—The Central Government may, by order in writing exempt, subject to such conditions and restrictions as it may impose, any cinematograph exhibition or class of cinematograph exhibitions from any of the provisions of this Part or of any rules made thereunder.

PART IV

REPEAL

18. Repeal.—The Cinematograph Act, 1918 (II of 1918), is hereby repealed:

Provided that in relation to Part A States and Part B States the repeal shall have effect only in so far as the said Act relates to the sanctioning of cinematograph films for exhibition.

K. V. K. SUNDARAM,
Secretary.